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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/507,155	09/06/2004	Jeffrey C Hays	4473P	1804
27485	7590	02/09/2005	EXAMINER CHOW, MING	
LLOYD W. SADLER MCCARTHY & SADLER, LC 39 EXCHANGE PLACE SUITE 100 SALT LAKE CITY, UT 84111			ART UNIT 2645	PAPER NUMBER

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/507,155

Applicant(s)

HAYS, JEFFREY C

Examiner

Ming Chow

Art Unit

2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

1. Claims 1-4 are rejected under 35 U.S.C. 102(e) as being anticipated by Smith et al (US: 6463462).

For claim 1, regarding item (A), Smith et al teach on column 2 line 28, create messages.

Regarding item (B), Smith et al teach on column 4 line 39, recipients are selected.

Regarding item (C), Smith et al teach on column 4 line 41-43, define the time for delivery.

Regarding item (D), Smith et al teach on column 2 line 30-32, delivering messages via telephone communications (reads on claimed “placing a call”) at the schedule as stated in item (C).

Regarding item (E), Smith et al teach on column 2 line 39, delivers messages and notifications. The “notifications” of Smith et al is the claimed “announcing”.

Regarding item (F), Smith et al teach on column 4 line 58-63, response data are stored in UN database.

Regarding item (G), Smith et al teach on column 4 line 53, messages are delivered as voicemails (reads on claimed “storing said message”).

Regarding claim 2, Smith et al teach on Abstract – response is presented to the message originator.

Regarding claim 3, Smith et al teach on column 9 line 43-44, view messages.

Regarding claim 4, Smith et al teach on column 11 line 37-40, recipient is prompted to supply information requested by the sender.

Conclusion

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2. The prior art made of record and not replied upon is considered pertinent to applicant's disclosure.

- D'Alessandro (US: 6556974) teaches method for evaluating current business performance.

3. Any inquiry concerning this application and office action should be directed to the examiner Ming Chow whose telephone number is (703) 305-4817. The examiner can normally be reached on Monday through Friday from 8:30 am to 5 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang, can be reached on (703) 305-4895. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer Service whose telephone number is (703) 306-0377. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks


Washington, D.C. 20231

Or faxed to Central FAX Number 703-872-9306.

Patent Examiner

Art Unit 2645

Ming Chow



SCOTT L. WEAVER
PRIMARY EXAMINER
Art Unit 2645